

REMARKS

Claims 1-9 and 13-16 are rejected under 35 U.S.C. 103(a) as being obvious over Kelm (US 5486215) in view of Spillman (US 5631102). Claim 1 has been amended. Also, claim 13 has been amended to depend from claim 1.

Kelm discloses a basic wrapped ("jellyroll") electrode configuration for an electrochemical cell, wherein an anode assembly having two layers of alkali material and covered by a separator that forms a pocket around the anode assembly. The office action admits that Kelm does not include a spacer layer. Spillman is relied upon as allegedly disclosing a spacer layer by reason of having "a separator insert," which is used in addition to the main separator. As described in Spillman, the separator insert covers the leading edge of an electrode to provide additional protection at the beginning of the wound electrode stack. Spillman states:

"What is necessary according to the present invention is that the separator insert 40 cover the leading edge 42 and at least one side of one of the electrodes of the cell." Col. 4, lines 31-32.

Claim 1 has been amended to specify that the assembly includes means for protecting against a short circuit condition between the anode and the cathode as a material that forms the anode becomes depleted during cell discharge including a spacer layer that covers a single side of the anode subassembly and *leaves a leading end of the anode subassembly exposed*. A combination of Kelm and Spillman fails to result in the structural combination of amended claim 1. To be a valid obviousness rejection, the combination of references must provide all the claim limitations. *In re Vaeck*, 947 F.2d 488 (Fed. Cir.1991). Applicant respectfully submits that this legal requirement for *prima facie* obviousness has not been met.

Accordingly, amended claim 1 is not obvious from the combination of Kelm and Spillman.

Applicant respectfully asserts that the present claims are in condition for allowance. Issuance of a Notice of Allowance is respectfully requested. The Commissioner is authorized to charge any deficiencies and credit any overpayments to Deposit Account No. 13-2546.

Respectfully submitted,

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Date

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